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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/557,294

11/18/2005

Alan Timothy Gibbs

BWT2-72511

7337

24201 7590 06/17/2008  
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EXAMINER

VENNE, DANIEL V

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

06/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/557,294	<b>Applicant(s)</b> GIBBS ET AL.	
	<b>Examiner</b> DANIEL V. VENNE	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34,38 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34,38 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/12/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/15/2008 has been entered.

2. No claims are amended; claims 35-37 and 39-41 are canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-34, 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roycroft (US 6855017 B2), in view of Gere et al. (US 5590617), and further in view of Tsaki et al. (US 5244425). Roycroft discloses an amphibious vehicle with fluid inlet, outlet and conduit, impeller (which can be driven in forward and reverse direction), stator, power take off, drive shaft(s) (drive and axle shafts) skewed horizontally and/or vertically relative to the longitudinal axis of the vehicle, universal and constant velocity joint(s) [18, 20], with rotatable impeller housed within a conduit between a fluid inlet and fluid outlet (water jet unit) [48], and configured as claimed (see Figs. 1-3). Roycroft does not specifically disclose a fluid inlet positioned in a surface of

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a planing hull; however, the hull shown in Fig. 3 can be considered a planing hull and a fluid inlet for the water jet pump [48] is inherent for the waterjet to function. Gere et al. discloses a planing hull with a water jet pump [54] for an amphibious vehicle. Tasaki et al. discloses a water jet unit [6] provided with a water inlet portion [22], formed integrally with the hull [2], which begins at a location beneath the watercraft as a water inlet opening [24]. The recited ratios, ranges and values presented in the claims are considered engineering design choices to enhance and optimize performance characteristics for the jet drive; adjusting the recited ratios, ranges and values would provide the thrust and performance attributes desired for the jet drive and the vehicle. Also, the recited ratio of thrust to intake length of the jet drive being at least 18 kN per meter of claim 1 is mentioned in the abstract and not in the specification, and is not adequately supported by the disclosure. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a fluid inlet positioned in the surface of the planing hull of Roycroft as disclosed by Gere et al. and Tasaki et al. to create the invention as claimed by applicant. The motivation would have been to provide an effective and streamlined means in the bottom surface of the planing hull for inlet water for the jet pump.

### ***Response to Arguments***

5. Applicant's arguments filed 4/15/2008 have been fully considered but they are not persuasive. Applicant argues that the claimed ratios, ranges and values recited for the jet drive fall outside conventional efforts to enhance and optimize performance and that the ultimate result is a jet drive that is capable of delivering a thrust to intake length

ratio of greater than 18 KN per meter and positioned completely within the hull of a watercraft, has not been achievable in the prior art. The examiner disagrees and the rejection above is sustained. The applicant's mere statement that the ratios, ranges and values recited for the jet drive are not achievable is not convincing. Absent any additional significant evidence, applicant has not convincingly argued that the ratios, ranges and values recited in the claims are not obvious engineering design choices in order to achieve the desired thrust to intake length ratio of greater than 18 KN per meter. Applicant's specification is not considered to adequately support applicant's statement and the 18kN per meter limitation is merely indicated in the abstract of the specification and in the claims. It is the examiner's position that the applicant has not sufficiently supported the mere contention that the recited ratios, ranges and values in the claims are not obvious engineering design choices for optimizing and achieving the desired performance characteristics of the jet drive, for the intended use of propulsion in an amphibious vehicle. Since the applicant has not provided any additional significant evidence to support the arguments presented, the rejection is not withdrawn.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DVV

/Lars A Olson/

Primary Examiner, Art Unit 3617